

January 6, 2006  
Case No.: GP-303478 (2760/105)  
Serial No.: 10/635,299  
Filed: August 6, 2003  
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**-- REMARKS --**

**A. Claim 4 was rejected under 35 U.S.C. §112**

The rejection of claim 4 has been obviated by an amendment correcting a typographical error. This amendment is entered solely to correct a typographical error and not to avoid any reference. Withdrawal of the §112 rejection of claim 4 is requested.

**B. Claims 1-6 and 8-20 were rejected as unpatentable over Impson in view of Tu**

The §103(a) rejection of claims 1-6 and 8-20 is traversed. To maintain this §103(a) rejection, the references, alone or in combination must teach or suggest each and every element of the claims.

At a minimum, the combination of references does not teach or suggest each and every claim element. First, the Examiner's citation of Tu '465 is clearly improper. Tu '465 is a continuation in part of United States Patent 6,839,628, and Tu '465 was filed after the instant filing date. Therefore, Tu '465 cannot be used against the instant application, as Tu '465 can only qualify as a "reference" under 35 U.S.C. §102(e) – in order to carry back the critical date of Tu '465 the parent application must support the claimed invention. See, MPEP §2136.03(IV). Tu '465 could not have theoretically issued the day the application was filed, and is therefore not entitled to be used against another as secret prior art. *In re Wertheim*, 646 F.2d 527 (CCPA 1981). The figures cited by the Examiner (FIG. 9B) does not appear in the parent of Tu '465, nor does the section of the specification cited by the Examiner (§79 of Tu '465). Thus, the material cited by the Examiner is new matter in Tu '465, not entitled to the filing date of the parent of '465.

Additionally, even if the combination were proper, the combination does not teach determining when a traffic incident region coordinate is within a predetermined radius around the mobile vehicle communication device based on the communicated traffic incident region coordinate data, as claimed in claims 1, 11, and 17.

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Specifically, the Examiner relies on Tu '465 for teachings of "searching POI and arranging listing order of POI including a traffic region the limitation of within a predetermined radius around the mobile vehicle communication device" (sic). However, Tu '465 actually only teaches relating to POI's along a route to a destination (see, Abstract, Tu '465), not a predetermined radius around the mobile vehicle communication device. Impson does not cure this defect of Tu '465.

Additionally, the combination fails to teach or suggest that the traffic incident region GPS coordinate describes the geometric center of a traffic incident region containing at least one traffic incident as claimed in claims 3 and 13.

Furthermore, the combination fails to teach or suggest that the traffic incident region has a selectable geometry as claimed in claim 5. The Examiner's citation to paragraph 78 of Tu '465 is misplaced, as there is no such disclosure or teaching, and Impson does not cure this deficiency. Even more significantly, there are no equivalent teachings in the parent of Tu '465, so Tu '465 cannot support the rejections as outlined above.

With respect to the elements claimed in claim 10, the Examiner entirely fails to indicate anywhere in either reference that makes any such teaching. While the examiner is correct to not provide any citations, as the references, alone or in combination, fails to teach or suggest the elements of claim 10, the Examiner has rejected claim 10 but failed to provide any support for the rejection.

Additionally, claims 2-6, 8-10, 12-16, and 18-20 depend directly or indirectly from one of claims 1, 11, or 17, and are therefore patentable over the references for at least the same reasons.

Withdrawal of the rejections to claims 1-6 and 8-20 is requested.

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**C. Claim 7 was rejected as unpatentable over Impson in view of Tu '465 in view of Zimmers**

The §103(a) rejection of claim 7 is traversed. Claim 7 indirectly depends from claim 1 and is therefore patentable over the references for at least the same reasons. The Applicant notes the apparent typographical error in the office action, wherein Zimmers is cited as Zimmes. In the event that the Examiner intended to cite a different reference, Applicant requests the Examiner bring such a reference to Applicant's attention.

Additionally, Applicant notes that the prior art specifically teaches away from the combination suggested by the Examiner. Specifically, and as noted in the specification at page 2 lines 9-12, the maximum bandwidth of a satellite system limits the amount of data that may be broadcast to a vehicle in real-time and still be processed without compromises in system response times. Therefore, one of ordinary skill in the art would not find a reasonable likelihood of success. At the very least, the limitation on bandwidth could then defeat the success of the combination – at the very least, one of ordinary skill in the art could be unsure of the likelihood of success of the combination, and the *Examiner has not provided any evidence* to the contrary. Since, there must be a reasonable expectation of success from the combination (MPEP §2143.02) to support this rejection, the Examiner has failed to meet their burden, and this §103(a) rejection must fall.

Withdrawal of the rejection to claim 7 is requested.

**D. New claims**

Claims 21-23 have been added, without adding new matter. Support for claims 21-23 is found, *inter alia*, on pages 18-23 and FIGS. 7 and 8 of the specification.

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**SUMMARY**

The Examiner's rejections of claims 1-20 have been obviated by the amendments and remarks herein supporting an allowance of pending claims 1-20 over the prior art. The Applicant respectfully submits that claims 1-23 herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: January 6, 2006

Respectfully submitted,  
ERNEST B. RENNELS

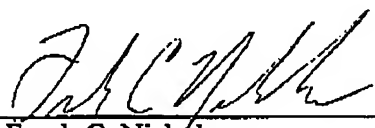
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